

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

**PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION IN LIMINE TO PRECLUDE  
REPTILE THEORY TRIAL TACTICS BY PLAINTIFF AND HIS COUNSEL**

Now come the plaintiffs, David A. Shirrell and Stacy Shirrell, by and through their attorneys, Hassakis & Hassakis, P.C., and for their Response to Defendants' Motion in Limine to Preclude Reptile Theory Trial Tactics by Plaintiff and His Counsel, state as follows:

## Response

1. Motions in Limine concerning “reptile theory trial tactics” have been considered by numerous other districts courts. Those district courts either denied such a motion or declined to rule on the motion. *See, Hensley v. Methodist Healthcare Hosps.*, 2015 U.S. Dist. LEXIS 113565, 2015 WL 5076982, at \*4-5 (W.D. Tenn. Aug. 27, 2015) (denying “Reptile Theory” motion because “Defendants have again not identified the specific evidence that is sought to be excluded”); *Jackson v. Asplundh Constr. Corp.*, 2016 U.S. Dist. LEXIS 149145, 2016 WL 5941937, at \*1 (E.D. Mo. Oct. 13, 2016) (declining to issue ruling on motion based on the “reptile theory”); *Cameron v. Werner Enterprises, Inc.*, 2016 U.S. Dist. LEXIS 68711, 2016 WL 3030181, at \*5 (S.D. Miss. May 25, 2016) (declining to issue ruling on motion based on reptilian theory because it was too “hypothetical”); *Bunch v. Pac. Cycle, Inc.*, 2015 WL 11622952, at \*2

(N.D. Ga. Apr. 27, 2015)(rejecting reptile theory motion because it was "overbroad"); Aidini v. Cotsco Wholesale Corp., 2017 U.S. Dist. Lexis 55863 (D. Nev., April 12, 2017) (sarcastically denying motion seeking broad prospective order untethered to any specific statement).

2. Plaintiffs argue that Defendants' motion is too broad and too speculative and therefore should be denied. Plaintiffs believe if Defendants' motion were granted they would be unable to discern what matters are precluded and which are allowable.

3. Plaintiffs also contend that Defendants' motion does not seek to preclude any specific evidence but rather seeks to bar use of "trial tactics" which is not the purpose of a motion in limine. Motions in limine permit the district court to eliminate evidence "that clearly ought not be presented to the jury," because it is "inadmissible for any purpose," Jonasson v. Lutheran Child and Family Services, 115 F.3d 436, 440 (7th Cir.1997).

4. Since no specific evidence has been referenced by defendants in its motion and the motion is overly broad/speculative, plaintiffs ask that such motion be denied. In the alternative, plaintiffs ask the court to decline ruling on the same at this time.

WHEREFORE, plaintiffs respectfully pray that the Court deny Defendants' Motion in Limine to Preclude Reptile Theory Trial Tactics by Plaintiff and His Counsel, or alternatively, decline to rule on the same at this time.

HASSAKIS & HASSAKIS, P.C.,  
Attorneys for Plaintiffs, DAVID A.  
SHIRRELL and STACY SHIRRELL,

By:   
\_\_\_\_\_  
James M. Ruppert

Attorneys for Plaintiffs:  
HASSAKIS & HASSAKIS, P.C.  
206 South Ninth Street, Suite 201  
Post Office Box 706  
Mount Vernon, IL 62864  
Phone: (618) 244-5335  
Fax: (618) 244-5330  
Email: [james@hassakislaw.com](mailto:james@hassakislaw.com)  
ARDC No.: 6313872

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

**CERTIFICATE OF SERVICE**

I hereby certify that on May 7, 2018 I electronically filed Plaintiffs' Response to Defendants' Motion in Limine to Preclude Reptile Theory Trial Tactics by Plaintiff and His Counsel with the Clerk of the Court using the CM/ECF system which will send notification of such filing(s) to the following:

Mr. Michael Weisenbach, counsel for defendants  
Mr. Jim Williams, counsel for defendants

HASSAKIS & HASSAKIS, P.C.,  
Attorneys for Plaintiffs, DAVID A.  
SHIRRELL and STACY SHIRRELL,

By:   
James M. Ruppert

Attorneys for Plaintiffs:  
HASSAKIS & HASSAKIS, P.C.  
206 South Ninth Street, Suite 201  
Post Office Box 706  
Mount Vernon, IL 62864  
Phone: (618) 244-5335  
Fax: (618) 244-5330  
Email: [james@hassakislaw.com](mailto:james@hassakislaw.com)  
ARDC No.: 6313872